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Supreme Court, U.S.
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Case No.: _____

IN THE

Supreme Court of the United States

ANTHONY MARTINI

Petitioner,

v.

GODADDY.COM INC.; and WILD WEST DOMAINS INC.

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS

1.) Does an Internet Domain Name Registrar have the legal right to deface customers' websites?

2.) Does an Internet Domain Name Registrar have the legal right to deface websites that are owned by the Petitioner?

3.) Does a U.S. District Judge have a right to discriminate against any Pro-Se?

4.) Must the U.S. District Court accept a Complaint from a Pro-Se even if there are errors in the Complaint?

5.) Does the United States Court of Appeals for the Ninth Circuit have a legal right to allow Paralegals and Government Attorneys hear appeal(s) from Pro-Se?

6.) Does the United States Court of Appeals for the Ninth Circuit have a legal right to dismiss a case before the brief is filed from the Petitioner?

7.) Does the United States Court of Appeals for the Ninth Circuit have a legal right to allow Paralegals to issue Orders instead of a Panel of Three Judges?

8.) Does the United States Court of Appeals for the Ninth Circuit have a legal right to keep Petitioner's money when no such Appeal was heard by a Panel of Three Judges and quickly dismissed by Paralegals or Government Attorneys?

9.) Does a U.S. District Judge have a legal right to invite the Respondents to enter a Judgment on a Petitioner when the Petitioner files a Complaint, to punish the Petitioner for filing such a Complaint?

10.) Is a Motion to Dismiss a Response?

11.) Does a Domain Name Registrar have the Legal Right to hack into their Customers' accounts and change the customers Records which includes addresses, name, email account, phone number so the Registrar can steal the customers' Domain Names?

12.) Is the Registrar allowed by Law to deface their customers' websites including removing all contents and copyright materials, intellectual properties, programs, data and replace all such contents with a Terrorist Symbol on their customers' websites and rerouting their customers' websites to a Terrorist Cell outside of the United States?

13.) Is an Internet Domain Name classified as a Personal Intellectual Property?

14.) Does the Registrar have the Legal Right to continue charging a yearly renewal fee after

the Customer creates the Domain Name and Registers the Domain Name in his/her personal name?

15.) Does any U.S. Government Agencies have the Legal Right to use the Registrars to hack into a customer's website and remove all contents?

16.) Does a Registrar have the Legal Right or the Legal Authority to send thousands upon thousands of viruses to the Petitioner's computers and servers because the Petitioner filed a Complaint against the Respondents who are Registrars?

17.) Does a Registrar have the Legal Right or the Legal Authority to send thousands of spam emails to all of the Petitioner's Business email accounts to stop the Petitioner from receiving emails from his customers?

18.) Does a Registrar have the Legal Right or the Legal Authority to stop Internet Traffic to

the Petitioner's websites for the illegal purpose of stopping the Petitioner from making any money on the Internet?

19.) Did the Respondents violate the Petitioner's First Amendment Constitutional Rights by hacking into the Petitioner's Personal website and removing Articles which are Copyright Materials which the Petitioner wrote and posted on his personal website?

20.) Does the United States Government or any of its Employees or its Agencies have the Legal Right and the Legal Authority to use a Registrar to terrorize the Petitioner by getting the Registrar to stop Internet Traffic, blocking Internet Traffic, Web tapping, defacing websites, hacking into email accounts and computers and servers of the Petitioner without any Court Orders?

21.) Does the U.S. District Court Judge have the Legal Right and Legal Authority to ignore

Statues, Case Laws and Case Notes from the Petitioner who is a Pro Se?

22.) Does a Registrar have the Legal Right or the Legal Authority to hack into their Customers' Control Panel and steal their Customers' Domain Names?

23.) Does a Registrar have the Legal Right to steal Domain Names and then resell the stolen Domain Names for thousands or millions of dollars for each stolen Domain Name?

24.) Does a Registrar have the Legal Right to hack into their Customers' Control Panel and delete or cancel all of their Customers' Domain Names and then place the stolen Domain Names in the Registrars Dummy Accounts?

25.) Is it the F.B.I. Jurisdiction to investigate stolen Domain Names here in the United States?

26.) Is it the U.S. Department of Justice jurisdiction to handle complaints from the Petitioner with respect to stolen Domain Names here in the United States?

27.) Does the United States District Court have the Jurisdiction to hear a Complaint from the Petitioner with respect to stolen Domain Names?

28.) Does the United States Department of Justice have the Legal Right to accept bribe money from the Respondents GoDaddy.Com Inc. to dismiss the Petitioner's Complaint?

29.) Does a Domain Name Registrar have the Legal Right or Legal Authority to monitor contents on websites?

30.) Does the Registrars have the Legal Right to block Internet Traffic from other Countries or other States or other cities on the Petitioner's websites?

31.) Does the U.S. District Court have jurisdiction to hear the Petitioner's Complaint who resides in the State of California against the Respondents who reside in the State of Arizona but does Business Nation Wide and World Wide on the Internet?

32.) Does a U.S. District Judge have the Legal Authority to allow the Respondents' Attorneys to commit character assassination, name calling against the Petitioner in Court Documents or Motions without disciplining or entering sanctions against the Respondents' Attorneys?

33.) Should a Pro Se Complaint be accepted as is even if a Pro Se Complaint is not one million percent perfect?

34.) Does the United States Court of Appeals for the Ninth Circuit have the Legal Right to continuously use Standard Denial Forms and enter Judges' Names on an Order when no

such Judge has ever heard or seen the Appeal from the Petitioner?

35.) Did the U.S. District Judge, Judge Andrew J. Guilford violate the Petitioner's Constitutional Rights by denying the Petitioner to go to Trial before a Judge and Jury when the U.S. District Judge totally ignored all the Petitioner's Complaint, Amended Complaints, Motions, Injunctions, Responses and only entertained the Respondents' Motion To Dismiss?

36.) Did the U.S. District Judge discriminate against the Petitioner by leaving the Petitioner's Case always to the end of the Court knowing full well that the Petitioner is a disabled man, with two brain tumors and walks with a cane and cannot sit in Court too long or stand up too long?

37.) Does the Petitioner or any Pro Se have the Legal Right to get a refund from the United

States Court of Appeals for the Ninth Circuit or any Appellant Court when their Appeals are never heard by a Panel of three Judges and only dismissed by Paralegals without any service ever given?

38.) Does any Appellant Court in the United States have the Legal Right for Judges not to sign their Orders?

39.) Does the U.S. Department of Justice have the Legal Right or Legal Authority to interfere in Cases before the U.S. District Courts when the United States or any of its Agencies are not part of any Complaint?

40.) Does a Registrar have the Legal Right or Legal Authority to hack into a third party Hosting Company that the Petitioner uses to shut the Petitioner's websites down?

41.) Does a Hosting Company who the Petitioner uses to host his websites and pays

his Bill every month have the Legal Right to crash the Petitioner's websites, programs and data on a weekly and daily basis because they received orders from a handful of corrupt U.S. Government Employees to bring the Petitioner to his knees without any Court Order ever issued in the United States?

42.) Does a Registrar like the Respondents have the Legal Right to conspire with AT&T Inc. and U.S. Homeland Security to attack the Petitioner's websites, domain names, data, programs to totally destroy the Petitioner who is a Lawful, Legal Political Refugee for their own personal and criminal gains?

43.) Does a U.S. Federal Government Agency like U.S. Homeland Security have the Legal Right to use a Registrar to hack into and remove contents on the Petitioner's websites without any Court Order issued anywhere in the United States?

44.) Does a Registrar have the Legal Right to block certain Articles on the Petitioner's website so the World will not see it by conducting illegal web tapping on the Petitioner's website?

45.) Does the Governor of Florida Charlie Crist have the Legal Right to use Registrars to remove Articles on the Petitioner's website without any Court Orders?

46.) Does Internet Service Providers have the Legal Right to block the Petitioner's IPs and preventing the Petitioner to have access to his own Personal or Business Websites?

47.) Does the Respondents who are Internet Domain Name Registrars have the Legal Right to change the Petitioner's Domain Name expiration dates to steal the Petitioner's Domain Names and charge a ransom fee of over three hundred dollars for the Petitioner to retrieve his own Domain Names back?

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OPINION BELOW

The Opinions of the United States Court of Appeals for the Ninth Circuit has not been published in this case.

STATEMENT OF JURISDICTION

The date on which the United States Court of Appeals for the Ninth Circuit decided my case was **JUNE 25, 2009.**

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: **AUGUST 20, 2009**, AND A COPY OF THE ORDER DENYING REHEARING APPEARS AT **Appendix "A".**

The Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

The Petitioner Anthony Martini is an entrepreneur, computer expert, web designer, System Analyst, System Administrator who registers Internet Domain Names and creates websites to sell his products or services in e-commerce.

The Petitioner hosts the majority of his Domain Names and Websites on his own Computer Servers from California and the Petitioner's other websites the Petitioner uses third party companies to host some of his websites.

The Petitioner registered his Domain Names through a Registrar of Godaddy.Com from December 18, 2002 to July 2007.

The Petitioner opened a wholesale account with the Respondent Wild West Domains Inc. on October 25, 2004 using his main domain of Pishnut.Com to allow visitors to register their

domain names and the Petitioner was suppose to get a commission from the Defendant Wild West Domains Inc.

The Petitioner registered over 300 Domain Names from the Respondents Godaddy.Com Inc. and Wild West Domains Inc. from December 18, 2002 to July 2007.

The Petitioner only registered Internet Domain Names with the Respondents and did not host his websites with the Respondents.

On July 3, 2007 the Respondents hacked into the Petitioner's two control panels and stole the Petitioner 300 plus internet domain names and changed the Petitioner passwords stopping the Petitioner from accessing his two control panels on two different servers.

On July 4, 2007 the Respondents defaced the Petitioners 300 plus websites and placed Terrorist Symbols on all of the Petitioner's websites.

The Petitioner called almost on daily basis trying to get his property back which was the Petitioners 300 plus Internet Domain Names from the Respondents from July 3, 2007 to mid September 2007 that stopped the Petitioner from making any money on the Internet.

The Petitioner sells advertising on over 15 websites to Attorneys who pay the Petitioner to post their law firm listing on the Petitioner's Attorney Websites.

The Petitioner also sells advertising to other business like photographers, Hotels, Motels, Inns, Bed and Breakfast, Real Estate and other business on most of his other websites.

The Respondents who were the only ones beside the Petitioner who had access to the Petitioner's User ids and Passwords willfully hacked into the Petitioner's two Control Panels and stole the Petitioner's 300 plus Internet Domain Names and then the Respondents rerouted the Petitioner's Stolen Domain Names to a Terrorist Cell in Canada and the Respondents

Defaced the Petitioners 300 plus Websites and placed Terrorist Symbols on all of the Petitioner's Web Sites.

The Petitioner warned the Respondents that if he the Petitioner did not immediately get all of his Domain Names Back within 24 hours then the Petitioner would file a huge lawsuit against the Respondents.

The Petitioner received most of his domain names back into his Control Panel by mid September 2007 which caused the Petitioner to lose making any money on the Internet whatsoever.

After the Petitioner received most of his Domain Names the Respondents stopped all Traffic to the Petitioner's Websites which prevented the Petitioner who is a severely disabled man from making any money on the Internet.

The Respondents then proceeded with denying the Petitioner from transferring his

Domain Names from the Respondents to another Registrar.

The Respondents escalated their attack and proceeded to SPAM all of the Petitioner's Business email accounts.

The Petitioner has over 10 email accounts per domain name and website and the Petitioner owns over 300 Domain Names and websites.

The Petitioner was receiving over 25,000 spam emails every day from the Respondents that was stopping the Petitioner from getting any emails from his clients.

The Petitioner's emails were full every day and the Petitioner was receiving SPAM emails that filled his email boxes and getting SPAM emails by the thousands about Viagra, breast implants, penis enlargements, pornography of which the Petitioner did not sign up to any of those sites.

The Petitioner was also receiving thousands of viruses everyday by email from the

Respondents that were trying to crash the Petitioner's websites, servers and computers.

The Respondents also stole the Petitioner and his wife Annette Martini website of www.annettemartin.us where the Petitioner and his wife received over six billion visits where the Petitioner and his wife post their Articles of Human Rights Abuse and Political Persecution.

The Respondents shut down the Petitioner's website of www.annettemartini.us numerous times violating the Petitioner's Rights for Freedom of Speech.

The Respondents also stole the Petitioner website of www.anthonymartini.net where the Petitioner sells his Brand Name Italian Design 100% Silk Neckties that carry his Brand Name of ANTHONY MARTINI and stopped the Petitioner of making any money on the Internet.

The Petitioner filed his First Complaint against the Respondents Godaddy.Com Inc. and Wild West Domains Inc. on July 21, 2008. The

Respondents Attorney immediately filed a "MOTION TO DISMISS."

On Monday, September 29, 2008 the Respondents hacked into the Petitioner's website of www.annettemartini.us and removed an article that the Plaintiff wrote about the Respondents and their Attorneys.

The Petitioner did not authorize the Respondents or give the Respondents permission to remove any articles or photos.

The Respondents again hacked into the Petitioner's website of www.annettemartini.us on October 1, 2008 and removed an email that was sent to the Petitioner from the U.S. District Court and the Respondents also removed all email communications from Attorneys where the Petitioner was looking to obtain an Attorney on Pro-Bono.

On Monday, October 20, 2008 the Respondents then hacked into the Petitioner's Attorney Web Site at www.attorneysaccess.com

and www.layersaccess.net and removed all paid Attorney listings.

In November 2008 the Petitioner was given a Trial Date by Judge and Jury by the presiding Judge, U.S. District Judge Andrew J. Guilford.

The Trial was set for July 2009 for eight days.

The Petitioner filed his "SAC" Second Amended Complaint on January 22, 2009 and once again the Respondents' Attorneys filed another "Motion to Dismiss".

In both Motions to Dismiss that the Respondents' Attorneys filed they were doing a great deal of name calling against the Petitioner and even going beyond the law and slandering the Petitioner's good name.

The Presiding Judge ignored all evidence as if he was looking at blank pages and was racist against Pro-Se's in general.

The Presiding judge ignored all of the Motions and injunctions that the Petitioner filed

and just entertained the Respondents' Attorneys Motions – Motions to Dismiss.

While the Presiding Judge ignored the Petitioner's Complaint and Amended Complaint the Respondents were still hacking into the Petitioner's computers, servers, websites and still stealing the Petitioner's Domain Names and the Presiding Judge never signed any Orders against the Respondents or any injunctions against the Respondents.

In January 11, 2009 while the Petitioner was still preceding in the U.S. District Court the Respondents stole four more of the Petitioner's Domain Names and held them hostage and demanding a ransom of $332.50 before returning the Petitioner's Domain Names back.

The Petitioner was forced to pay off the Respondents for the ransom fee of $322.50 and the Presiding Judge was notified of this latest event and the Presiding Judge did not even care whatsoever and continued to entertain the

Respondents' Attorneys' Motion – Motion to Dismiss.

The Petitioner had three Servers and one computer totally destroyed by the Respondents and AT&T Inc. who hacked into the Petitioners' computers and servers and crashed the Petitioners' computers and servers with viruses that destroyed his entire data, financial records, websites etc. bringing the Petitioner to his knees and stopping the Petitioner from making any money of any kind on the Internet.

The Petitioner again filed motions for injunctions and the Presiding Judge again did not care that the Respondents were escalating their crime and attacks against the Petitioner because of the Complaint that was before the U.S. District Court.

The Presiding Judge, Judge Andrew J. Guilford set a Trial Date for 8 Days in July 2009; However, the Presiding Judge already decided that he was going to dismiss the Petitioner's Complaint against the Respondents.

XXVII

The Presiding Judge, Judge Andrew J. Guilford would not allow the Petitioner to go to Trial but pretended that he would be a just judge to the Petitioner.

The Presiding Judge heard a Motion to Dismiss that was filed by the Respondents' Attorney and then the Presiding Judge, Judge Andrew J. Guilford in his order Invited the Opposition to enter a Judgment against the Petitioner.

The Presiding Judge, Judge Andrew J. Guilford then signed his Order Granting Respondents Motion to Dismiss and also entered a Judgment against the Petitioner who was a Plaintiff. However, U.S. District Judge, Judge Andrew J. Guilford signed a BLANK JUDGMENT against the Petitioner which violates all laws of the United States.

Judge Andrew J. Guilford, put a Judgment on the Petitioner only because Judge Andrew J. Guilford has a personal bias against the

Petitioner and the Presiding Judge is racist against all Pro-Se's.

The Petitioner in over 30 years has never ever seen a Judge invite the Opposition to enter a Judgment on a Plaintiff when the Petitioner in this case was trying to seek Justice through the Courts.

Judge Andrew J. Guilford victimized a victim even further by inviting the Respondents who are Criminals to continue victimizing the Petitioner.

Judge Andrew J. Guilford had already dismissed the Petitioner's Complaint against AT&T Inc. et al.

The Petitioner argued that in the Case of Sex.Com (Gary Kremen, et al., v. Stephen Michael Cohen, et al. that the Plaintiff Gary Kremen filed a lawsuit against the Registrar (Network Solutions Inc.) known as NSI in Court Documents for stealing his domain name of Sex.Com.

XXIX

In the Case of *Gary Kremen, et al., v. Stephen Michael Cohen, et al. No. C 98-20718 JW and Ninth Circuit No. 01-15899* - The Case was about a Controversial Case and the beginning of PROPERTY RIGHTS for Internet Domain Names.

The Domain Name of SEX.COM made land mark victories for the owners of Internet Domain Names.

In the Case of *Sex.Com*, Con man Stephen Cohen who was serving time behind bars for impersonating a bankruptcy attorney stole the domain name of *Sex.Com* by supplying the Registrar of Sex.Com which was Network Solutions with Fraudulent Papers for him to change the name of Ownership of Sex.Com from Gary Kremen to himself Stephen Cohen.

The Registrar (Network Solutions Inc.) known as NSI in Court Documents agreed and changed the ownership of Sex.Com and gave the domain name to Stephen Cohen.

Gary Kremen then filed a lawsuit against Network Solutions, VeriSign the Registrars and also the Con Man Stephen Cohen.

Gary Kremen finally did get his Domain Name back of Sex.Com and won the Land Mark Victory of $68 Million. The Registrar was held responsible by the Court and had to pay an undisclosed amount. However, some reports have reported that the Registrar VeriSign who bought out their own Sister Company of Network Solutions for 2 Million Dollars paid an amount of $20 Million for one Domain Name as was ordered by the U.S. District Court.

The Presiding U.S. District Judge, Judge Andrew J. Guilford totally ignored The Petitioner Case Note in the Case of *Gary Kremen, et al., v. Stephen Michael Cohen, et al. No. C 98-20718 JW and Ninth Circuit No. 01-15899.*

The Petitioner also quoted *Getaped.Com Inc. v. Cangemi - 188 F. Supp. 2d 298 (S.D.N.Y. 2002).* (holding public Web pages were considered published works and therefore entitled to

statutory damages if successful in an infringement action).

The Petitioner also quoted to the Presiding Judge, Judge Andrew J. Guilford the case of *Webloyalty.Com Inc. v. Consumer Innovations, LLC.*

In the case of Webloyalty.Com Inc. v. Consumer Innovations, LLC, Civil Action No. 04-90-KAJ (D. Del. September 26, 2005 After a bench trial, a Federal Delaware District Court found defendant Consumer Innovations guilty of willfully infringing plaintiff Webloyalty.com's copyrights in a banner ad and related "sell page." These materials are used by Webloyalty to promote an online "club" whose members, for a monthly fee, can purchase merchandise offered for sale through the "club" at a discount. Defendant, a competitor, was held to have infringed plaintiff's copyrights by copying substantial portions of these advertising materials. Such copying was held to be willful, in large part, because Consumer Innovations denied copying plaintiff's materials in

the face of convincing evidence to the contrary. As a result, the Court awarded plaintiff statutory damages of $50,000, comprised of $25,000 for each act of infringement, together with a significant portion of the attorneys' fees expended by plaintiff in prosecuting this action. In setting the amount of such damages, the Court took into account both the absence of any evidence that plaintiff had been injured by defendant's activities, as well as evidence that defendant generated only $1,000 in revenue from its use of the promotional materials at issue.

A finding of willfulness increases the statutory damages awardable by the Court to an amount up to $150,000 for each act of infringement.

Plaintiff sought and received statutory damages as a result of defendant's willful infringement. According to the Court:

The Court's award only covered fees expended after the Court, on a summary judgment motion, rejected defendant's defenses of

merger and scenes a faire. All told, the Court awarded plaintiff $226,621.35 in attorneys' fees.

Finally, the Court rejected plaintiff's claims of trade dress infringement, because Webloyalty failed to show either that "the features of its sell page and Banner are inherently distinctive or that they have acquired secondary meaning."

The Presiding U.S. District Judge, Judge Andrew J. Guilford totally ignored the above case notes and Statues.

The Petitioner also quoted the Case of *Facebook v. Guerbuez, 08-3889, U.S. District Court, Northern District of California (San Jose).*

In that Case the Defendant Adam Guerbuez from Montreal, Canada the owner of Atlantis Blue Capital and the Web site Ballervision.com, was accused of hacking into the Plaintiff Facebook.Com website, information, computers," or "users' accounts, information or profiles and started to send the Plaintiff Facebook.Com Customers Spam Emails.

XXXIV

Facebook Inc., the world's largest social-networking Web site, won an order requiring the owner of a Canadian-based site to pay $873.3 million for illegally using Facebook users' log-in information to send spam.

U.S. District Judge Jeremy Fogel in San Jose, California, on Nov. 21, 2008 issued the order against Adam Guerbuez, of Montreal, the owner of Atlantis Blue Capital and the Web site Ballervision.com, according to court documents.

The U.S. District Judge, Judge Fogel awarded Facebook damages of $436.6 million for the spam and doubled the award against Guerbuez for "aggravated" violations of the 2003 CAN-SPAM Act by illegally accessing Facebook data.

The judge barred Guerbuez from "accessing, whether directly or indirectly, Facebook's data, information, computers," or "users' accounts, information or profiles for any reason whatsoever."

The Presiding U.S. District Judge Andrew J. Guilford also ignored the following Petitioner Anthony Martini Statues that he supplied to the Court California Penal Code §502(c)(3)(4)(5)(6)(7)(8), California Penal Code §502(e)(1), Violations of The Electronic Communication Privacy Act (18U.S.C. §2701 et seq.) and the Can- Spam Act (15 U.S.C. § 7701 et seq.)

The Presiding U.S. District Court Judge, Judge Andrew J. Guilford totally ignored all of the Petitioner's Case Laws, Statues, Motions, Injunctions, T.R.O.- Temporary Restrainer Order and anything that the Petitioner filed in the U.S. District Court.

Judge Andrew J. Guilford only entertained the Respondents Motion – Motion to Dismiss and violated the Petitioner's Right to proceed to Trial.

The Respondents continued hacking into the Petitioner's Computers, Website, Email Accounts and the Respondents continued sending thousands of Spam emails and Viruses to all of

the Petitioner's email accounts while the Petitioner's Complaint was before the U.S. District Court.

REASONS FOR GRANTING THE PETITION

Review is warranted because this Court's guidance is necessary to answer the question whether the United States District court violated a Pro-Se's rights to go to Trial.

The Court's guidance is also needed regarding the question whether the Petitioner has a legal right to proceed to Trial by Jury and that the U.S. District Court should accept the Petitioner's Complaint 'AS IS'.

The Court's guidance is also needed regarding property rights of Internet Domain Names and that the Petitioner is protected under Property Laws.

The Court's guidance is also needed regarding Computer Hacking and Defacing Websites that was caused by the Respondents.

The Court's guidance is also needed regarding Internet Domain Names that are stolen that are protected under Personal Property Laws.

HISTORY

The Petitioner Anthony Martini is an entrepreneur, a Computer Programmer and a web designer who registers Internet Domain Names through registrars and creates websites and sells products and/or services on his websites.

The Petitioner also registers Internet Domain Names from Registrars and resells his Domain Names to companies and Individuals.

A domain name is like abc.com and suffixes or extensions of domain names are dot com, dot net, dot org, dot biz, dot us, dot info etc.

Registrars referred hereinafter as companies that are accepted by ICANN – to allow customers and visitors to go on the Registrar Web Site and Register Internet Domain Name(s).

The customer pays an initial fee that can range for dot com domain name from $8.00 – $60.00. The customer then takes the domain name that he/she registers and creates a website

to sell products or services or to post their Articles etc.

The customer is the legal owner of that domain name and as long as the customer pays a yearly renewal fee then the customer will always be the owner of that domain name.

The customer has access to what is called a Control Panel where he/she registered their Domain Name(s) with the Registrar and has total control of his/her Domain Name.

The Petitioner registered Internet Domain Names from 1998 to the current date.

In April 2002 the Petitioner Anthony Martini had over 3,927 Internet Domain Names stolen from the Registrar by the name of VeriSign and Network Solutions.

In late April 2002 the Petitioner discovered that his Stolen Domain names were being auctioned off to the Highest Bidders.

The Petitioner discovered that the Defendant Godaddy.Com had possession of over 200 of the Petitioners' Stolen Domain Names.

VeriSign and Network Solutions sold all of the Petitioner's Domain Names and sold them to the highest bidders profiting over Eleven Billion Dollars.

The Petitioner spoke to the owner and President Robert (Bob) Parsons of Godaddy.Com in late April 2002 and the owner of Godaddy.Com Robert Parsons promised the Petitioner that neither he nor his company had any involvement with the stolen Domain Names.

On December 18, 2002 the Petitioner set up an account at Godaddy.Com and started registering Internet Domain Names with the Registrar Godaddy.Com and the Respondent Godaddy.Com Inc.

On October 25, 2004 the Petitioner set up a Wholesale account with the Respondent Wild West Domains Inc. to have a Panel where his

clients can register Internet Domain Names and where the Petitioner can Register Internet Domain Names through his own Control Panel cheaper than the Registrar Godaddy.Com.

The Respondents Godaddy.Com Inc. and Wild West Domains Inc. are owned by the same owner of Robert (Bob) Parsons.

The Petitioner had two different accounts on two different servers with the Respondents.

The Respondent Godaddy.Com Inc. gave the Petitioner a Userid with eight digits and the Petitioner set up his own password that consisted of eight alpha characters and numbers.

The Respondent Wild West Domains Inc. gave the Petitioner a Userid with eight digits and the Petitioner set up his own password that consisted of ten alpha characters and numbers

The Petitioner used the email address of tonymartini2002@yahoo.com that the Petitioner used since 2002 without any problems.

The Petitioner email account tonymartini2002@yahoo.com had a different password that consisted of fifteen alpha characters and numbers.

The Petitioner registered over 300 Internet Domain Names with the Respondents on Godaddy.Com and also in his Wholesale Account with the Respondent Wild West Domains Inc.

On Saturday, May 21, 2005 the Petitioner registered a domain name of www.annettemartini.us to tell the world their true horror story fighting for Freedom in the United States and all the Inhumane Treatments.

In June 2005 the Respondent Godaddy.Com Inc. received a call from then Attorney General of Florida Charlie Crist that was running for Governor of Florida to shut the Petitioner Anthony Martini and his wife Annette Martini web site of www.annettemartini.us .

The Defendant Godaddy.com complied with Charlie Crist and shut down the Plaintiff website of www.annettemartini.us.

The Petitioner was told that the reason that his website at www.annettemartini.us was shut down was because the Petitioner did not have his phone number in the whois information.

The Petitioner noticed that Charlie Crist was on the site 24 hours before because the Petitioner Anthony Martini and his wife Annette Martini monitors all traffic in live time which means that the Petitioner can see every person that visits his website and the Petitioner can see the IP – Internet Protocol Number, the location of the person, city, state, country etc. and also see the service provider.

An IP is like a Social Security Number that can identify every computer on the Internet. There are two types of IP's the first is a dynamic IP which means that IP number is changed by the Service Provider on a regular basis usually every 60-90 days. The other IP is called a Static IP.

Governments and Business and Hosting Companies have Static IPS which means that IP will always remain the same unless the System Administrator changes that IP.

An IP would be something like 111.11.11.2 etc.

The Petitioner told the Respondent Godaddy.Com Inc. that they the Respondent are violating his First Amendment which was Freedom of Speech and the Petitioner would file a lawsuit against the Respondent Godaddy.Com if his and his wife website was not immediately put back online.

The Respondent Godaddy.Com Inc. put the website of www.annettemartini.us back on line within 48 hours. When visitors went to the website of www.annettemartini.us they saw a blank page that said site cannot be found.

The Petitioner was not hosting any of his domain names with the Respondents.

Hosting is a computer terminology that means you take your domain name and either host your own website or place your domain name with another company to host your website for the world to see the website contents.

The Petitioner was hosting most of his websites with a third company in the state of California form 2002 to current date.

The Respondents Godaddy.Com Inc. and Wild West Domains Inc. had full access to the Petitioner Control Panel at all times, including user id's and passwords.

The Respondents Godaddy.Com Inc. and Wild West Domains Inc. continued stopping traffic to the Petitioner's Websites with a program that they created which is like the power company turning off your electricity.

The Respondents could stop traffic from any country or any state or any city in the United States going to the Petitioner's 300 plus websites.

The Respondents were used as an instrument of a handful of corrupt U.S. Government Employees to stop traffic going to the Petitioner's Websites.

On July 3, 2007 the Petitioner went to check his email at tonymartini2002@yahoo.com and noticed that his domain names were being canceled from the Respondents Servers in his two accounts at the same second.

The Petitioner tried to log into his account at Godaddy.Com and his wholesale account at Wild West Domains Inc. and access to his two accounts was denied.

The Petitioner immediately contacted the Respondents Godaddy.com and Wild West Domains Inc. at the same phone number and the Petitioner's password was reset by the Respondents. However, the Petitioner could still not get access to his two accounts.

The Petitioner was finally able to access his account at the Respondent Godaddy.Com but noticed that all of his domain names were stolen.

The Petitioner could not access his wholesale account with the Respondent Wild West Domains Inc. because his main Domain Name of Pishnut.Com was stolen and that main domain name was used to access into his Wholesale Account Control Panel.

The Petitioner noticed that over 300 of his Domain Names were all stolen.

The Petitioner was advised that someone transferred all of his Domain Names to another account at Godaddy.Com by the Respondent Godaddy.Com Inc.

The Petitioner was advised by the Respondent Godaddy.Com Inc., that his domain names would be immediately transferred back into his account within 24 hours.

On Wednesday, July 4, 2007 around 11:00 AM the Petitioner went to check on his sites and

noticed that all of his sites had what appeared to be Terrorist Symbols Posted on all of his sites and what appears to be Arabic Writings posted on all of his sites.

The Petitioner immediately called the F.B.I. in Los Angeles, California and three agents verified that the Symbols posted on the Petitioner Site maybe Terrorist Symbols.

The F.B.I. passed the information to the F.B.I. Terrorist Division in Washington, D.C.

The Petitioner's websites were all transferred to a Terrorist Cell in Canada and the Petitioner had no control over any of his Domain Names or Websites.

The Petitioner who is a computer expert and a former Private Investigator knows for a fact that it is virtually impossible for any hacker to be in three different servers in three different states or cities and hack in the exact same second with three different userid's and three different passwords.

Chances of any hacker pulling this stunt would be one in a trillion.

The Petitioner also knows for a fact that it is impossible to delete a domain name in a control panel at the Respondents Servers and after deleting the Domain Name transferring the Domain Name to another account at the same time.

The Petitioner contacted the Respondents on July 4, 2007 after contacting the F.B.I. and told the Respondents that if his Domain Names are not immediately returned back to him then the Petitioner would file a huge lawsuit against the Respondents.

The Petitioner also warned the Respondents that if they did not immediately remove the Terrorist Symbols from all of his sites that the Petitioner had no control of then the Petitioner would sue the Respondents.

Within 15 minutes of the call all Terrorist Symbols were taken off of all the Petitioners'

Websites. However, the Petitioner still did not have any control of his domain names or have any control over his websites which proved that the Respondents had stolen the Petitioners 300 plus Internet Domain Names.

The Petitioner knows for a fact that the Respondents were working with and being the Instrument of a handful of corrupt U.S. Government Employees.

The Petitioner knows for a fact that the Respondents did the following:

The Respondents had one employee that logged in the Petitioner's Control Panel at Godaddy.Com and another employee from the Respondent that logged in to the Petitioner Control Panel in the server with the Respondent Wild West Domains Inc. and the Respondents had someone from AT&T Inc., to hack into and log into the Petitioner email address at tonymartini2002@yahoo.com at the same second.

The Respondents after logging in the Petitioner Control Panel started to cancel and delete all of the Petitioners' email and the third accomplice that was an employee with AT&T Inc., went into the Petitioner email account at Yahoo and removed all of the evidence of emails that proved that the Respondents were deleting the Petitioner's Domain Names.

Then the Respondents who had full control of the Userid and passwords of the Petitioner took all the canceled and deleted domain names out of the Petitioner's account and placed it on a dummy account to sell the Petitioner's Domain Names to the highest bidders.

The Petitioner sells advertising to attorneys and Law Firms on 15 Attorney Websites and all of the Petitioner's Stolen Attorney Domain Names all had Terrorist Symbols on all sites.

The Petitioner also sells advertising on his other websites to Business, Real Estate, Photographers, Hotels etc. and all of those sites

were also defaced and all had Terrorist Symbols on all of the Petitioner's Websites.

The Petitioner was advised by the Respondents employees to contact the Office of the President at Godaddy.Com and the Petitioner called the Office of the President hoping that he would immediately have all of his Domain Names returned back to him.

The Employees at the Office of the President demanded that the Petitioner scan his Driver's License and email the Respondents a copy of his Driver's License and the Respondents promised the Petitioner that he would immediately get all of his Domain Names back within 24 hours. The Petitioner complied with the strange request.

The Respondents did not have a copy of the Petitioner Drivers License when the Petitioner registered over 300 plus Internet Domain Names with the Respondents from December 18, 2002 to July 2007.

The Petitioner complied but did not get his 300 plus Internet Domain Names from the Respondents.

The Petitioner had to phone almost every day the Respondents for his Domain Names to be returned back to him from July 3, 2007 to mid September 2007.

The Petitioner filed his First Complaint (FC) in the U.S. District Court, located in Santa Ana, California on Monday, July 21, 2009 in the Case of Anthony Martini v. Godaddy.Com and Wild West Domains Inc. Case No. SACV08-00799 JVS (RNBx).

The Petitioner filed a Motion to have the above case heard by U.S. District Judge Andrew J. Guilford because the case was related to the other complaint that the Petitioner filed a Complaint against AT&T Inc.

The Petitioner's Motion was immediately accepted and the case was transferred to U.S. District Judge, Judge Andrew J. Guilford.

The Petitioner received a letter from the U.S. District Court indicating that the Respondent' Attorneys filed Documents in error.

The Respondents did not file a response in a timely fashion manner and the Petitioner made a Motion for a Default Judgment.

The U.S. Court ignored the Default Judgment.

The Respondents' Attorneys immediately filed a Motion – Motion to Dismiss based on Lack of Jurisdiction of the Court and also indicating that they did not know what the Complaint was all about.

The U.S. District Judge, Judge Andrew J. Guilford immediately entertained the Respondents' Motions and Granted the Respondents' Motion to Dismiss with leave to Amend.

In November 2009 the Presiding U.S. District Judge, Judge Andrew J. Guilford set an eight day Trial for July 2009

The Petitioner's Computers and Servers were being hacked and attacked on a daily basis by the Respondents ever since the Petitioner filed his (FC) in the U.S. District Court.

The Respondents were sending thousands of Spam email to all of the Petitioner's email accounts and also sending numerous viruses to the Petitioner's Computers, Servers and email accounts to totally shut the Petitioner down and crash the Petitioner's Computers and Servers which cost the Petitioner thousands of dollars to replace hardware, software and programs.

The Respondents escalated their attacks on the Petitioner's web sites by stopping traffic to the Petitioner's webs sites and continuing defacing the Petitioner's web sites.

The Petitioner filed his Second Amended Complaint (SAC) on Monday, November 17, 2009 and increased the amount of his Complaint from $150 Million to $350 Million.

The Respondents even hacked into the Petitioner's web site of www.annettemartini.us and removed an Article that the Petitioner wrote about the Respondents and their Attorneys.

The Respondents even hacked into the Petitioner's email account at anthony@annettemartini.us and removed an email from the U.S. District Court and also removed all emails from Attorneys when the Petitioner was looking for an Attorney to represent him in this Complaint against the Respondents.

The Respondents then hacked into the Petitioner's web sites where the Petitioner sells advertising to Attorneys and Law Firms and removed all of the Petitioner's Customers who are Attorneys' listings.

The Respondents' Attorneys again filed a Motion to Dismiss and the presiding Judge entertained the Respondents' Motion to Dismiss and granted the Respondents' Motion to Dismiss with leave to amend to the Petitioner.

The attacks on the Petitioner's websites, defacing of websites, computer attacking, server attacking and hacking increased by a thousand folds from the Respondents.

The Petitioner even tried to get an Injunction against the Respondents and the U.S. District Judge ignored all of the Petitioner's requests, injunctions, motions, responses, documents, evidence etc.

The Petitioner filed his (TAC) Third Amended Complaint on January 28, 2009.

The Respondents' Attorneys immediately filed a Motion to Dismiss.

On March 16, 2009 the Presiding Judge Granted the Respondents' Motion to Dismiss and then the Presiding Judge, Judge Andrew J. Guilford invited the Respondents to enter a Judgment against the Petitioner.

The Respondents still continue to this date changing the Petitioner's contact information on

his domain names in order to steal the Petitioner's domain names.

The Presiding Judge, Judge Andrew J. Guilford allowed the Respondents' Attorneys to conduct name calling against the Petitioner and to commit Character Assassination against the Petitioner in the Respondents Attorneys' Motions, and Responses against the Petitioner.

The Presiding U.S. District Judge allowed the Respondents to continue attacking the Petitioner's Computers, Servers, websites, domain names and defacing the Petitioner's Websites.

The Presiding U.S. District Judge, denied the Petitioner to proceed to trial because Judge Andrew J. Guilford is racist against Pro Se.

RELIEF

The Petitioner Anthony Martini is demanding and praying that the Writ of Certiorari be accepted and that the United States Supreme Court enter a Judgment against the Respondents for the amount of the Complaint which is Four Hundred and Fifty Million Dollars plus Punitive Damages.

The Petitioner is demanding that the United States Court of Appeals for the Ninth Circuit Unsigned Order dated August 20, 2009 be overturned that Denied the Petitioner Rights to due process.

The Petitioner is also demanding that in the event that the United States Supreme Court allows the Petitioner to go to Trial that the U.S. District Judge, Judge Andrew J. Guilford be removed from this case.

The Petitioner is also demanding that the Judgment that was entered against him by Judge Andrew J. Guilford with no amount be overturned.

The Petitioner is also demanding that this Court issues an Order against the Respondents to immediately halt hacking into the Petitioner's Computers, Servers, email accounts, websites and halting the Respondents from stealing the Petitioner's Domain Names and defacing the Petitioner's websites.

The Petitioner is demanding a Written Apology and a Public Apology from the Respondents Godaddy.Com Inc. and Wild West Domains Inc in all newspapers and T.V. Stations worldwide.

The Petitioner is demanding that his Writ of Certiorari be immediately accepted and that the Petitioner will be able to have Oral Arguments before the United States Supreme Court via Phone because the Petitioner is disabled and cannot travel to this Court.

CONCLUSION

The Petitioner Anthony Martini had over three hundred Internet Domain Names that were stolen by the Respondents Godaddy.Com Inc., and Wild West Domains Inc., on July 3, 2007.

The Petitioner had all Internet Traffic going to his websites stopped by the Respondents.

The Petitioner had his Internet Domain names that were stolen by the Respondents defaced by the Respondents removing all contents on the Petitioner's websites and the Respondents placed Terrorist Symbols on all of the Petitioner's websites.

The Respondents Godaddy.Com Inc. and Wild West Domains Inc., hacked into the Petitioner's 15 Attorney Web Sites where the Respondents removed all of the Attorneys Paid Listings off of the Petitioner's Attorney Websites.

The Respondents Godaddy.Com Inc. and Wild West Domains Inc., sent thousands of spam

emails daily to all of the Petitioner's business email accounts to fill up the Petitioner's email accounts and to block the Petitioner's customers from communicating with the Petitioner and stopping the Petitioner who is a disabled man from making any money on the Internet.

The Respondents worked with AT&T Inc., and a handful of corrupt United States Government employees to make sure that the Petitioner will never make any money on the Internet.

The Respondents even stopped all Internet Traffic to the Petitioner's site at www.anthonymartini.net where the Petitioner sells his Brand Name Italian Design Silk Ties and preventing the Petitioner from making any money on the Internet.

The Respondents even hacked into the Petitioner's Computers and Servers to prevent the Petitioner from hosting his websites and to eliminate the competition.

The Respondents were an Instrument of a handful of corrupt United States Government Employees and kept on attacking the Petitioner's domain names, websites, computers, servers to prevent the Petitioner from making any money because the Petitioner filed a Complaint against the D.O.J. - United States Department of Justice for inhumane treatments etc.

The Respondents stole the Petitioner's three hundred plus internet domain names that are valued at billions and billions of dollars for their own personal and criminal gains.

The Respondents wanted to sell the Petitioner's stolen domain names to the highest bidders.

The Respondents have been stealing their customers' domain names for years and resell the stolen domain names to the highest bidders on Godaddy.Com Live Auctions.

The Respondents Godaddy.Com Inc. and Wild West Domains Inc., willful illegal criminal actions against the Petitioner has caused the Petitioner hundreds of millions of dollars in Sales both past and present and the Respondents have stopped the Petitioner from making Hundreds of Millions of Dollars of Sales in the present.

If the Respondents Godaddy.Com Inc. and Wild West Domains Inc. are not stopped now the Respondents will continue to totally destroy the Petitioner's livelihood in the present and in the future.

For all the foregoing reasons, the Petitioner Anthony Martini **"WRIT OF CERTIORARI" should be GRANTED.**

Respectfully Submitted,

ANTHONY MARTINI

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Petitioner / Pro-Se

APPENDIX

APPENDIX "A"

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

STAMP – AUG 20, 2009

ANTHONY MARTINI

Plaintiff – Appellant,

v.

GODADDY SOFTWARE INC., et al.,

Defendants – Appellees.

No. 09-55486

D.C. No. 8:08-cv-00799-AG-RNB

Central District of California,

Sana Ana

ORDER

APPENDIX "A"

Before: SCHROEDER, KLEINFELD, and M. SMITH, Circuit Judges.

A review of the record and appellant's response to the June 25, 2009 order to show cause indicates that the questions raised in this appeal are so insubstantial as not to require further argument. See United States v. Hooton, 693 F.2d 857, 858 (9th Cir.1982) (per curiam) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

AFFIRMED.

Pro Se

/unsigned/

APPENDIX "B"

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

STAMP – JUN 25 2009

ANTHONY MARTINI

Plaintiff – Appellant,

v.

GODADDY SOFTWARE INC., et al.,

Defendants – Appellees.

No. 09-55486

D.C. No. 8:08-cv-00799-AG-RNB

Central District of California,

Sana Ana

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

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Appellant's document filed by this court April 28, 2009 is constructed as a motion for reconsideration of this court's April 14, 2009 order. So constructed, the motion is denied. See 9th Cir. R. 27-10; 9th Cir. R. 27-1 (Circuit Advisory Comm. Note).

A review of the record demonstrates that this appeal may be appropriate for summary disposition because the questions on which the decision in the appeal depends may be so insubstantial as not to justify further proceedings. See 9th Cir. R. 3-6. Within 21 days after the date of this order, appellant shall show cause why the judgment in this appeal should not be summarily affirmed. Appellees may file a reply to appellant's response within 10 days from service of the response.

CO/Pro Se

APPENDIX "B"

Appellant's failure to comply with this order will result in the automatic dismissal of this appeal by the Clerk for failure to prosecute. See 9th Cir. R. 42-1

/unsigned/

CO/Pro Se

APPENDIX "C"

JS-6

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

ORDER

March 16, 2009

ANTHONY MARTINI,

Plaintiff,

v.

GODADDY.COM INC. and WILD WEST DOMAINS INC.,

Defendants.

CASE NO. SACV08-0799 AG (RNBx)

ORDER GRANTING DEFENDANTS'

APPENDIX "C"

MOTION TO DISMISS

Before the Court is a Motion to Dismiss ("Motion) filed by Defendants Godaddy.com, Inc. ("Godaddy") and Wild West Domains, Inc. ("Wild West") (collectively "Defendants").

After considering all papers and arguments submitted, the Court GRANTS Defendants' Motion without leave to amend.

BACKGROUND

Plaintiff Anthony Martini ("Plaintiff") is an entrepreneur who operates websites. (Second Amended Complaint ("SAC" ¶ 22.) Defendants provide Internet domain registration services, and Plaintiff has registered more than 300 domain names with Defendants. (SAC ¶ 26.) In this lawsuit, Plaintiff alleges that Defendants stole his

domain names, stopped traffic to his websites, and possibly engaged in terrorist activity.

Based on these facts and others, Plaintiff states a total of seven claims against Defendants, numbered as follows: (1) an unidentified claim requesting that the Court order Defendants to pay Plaintiff $1,000 for each of Plaintiff's domain names; (2) injunctive relief; (3) violations of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.;* (4) violations of California Penal Code § 502; (5) violations of the Electronic Communications Privacy Act, 18 U.S.C. § 2701, *et seq.;* (6) breach of contract; and (7) violations of the CAN-SPAM Act, 15 U.S.C. § 17701, *et seq.* Defendants now move to dismiss all seven claims.

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LEGAL STANDARD

Under Federal Rule of Civil Procedure 12(b)(6), a complaint must be dismissed when a plaintiff's allegations fail to state a claim upon which relief can be granted. Fed R. Civ. P. 12(b)(6). Rule 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). "[O]rdinary pleading rules are not meant to impose a great burden upon the plaintiff." *Dura Pharms Inc. v. Broudo*, 544 U.S. 366. 347 (2005). "Specific facts are not necessary; the statement need only 'give the defendant fair notice of what the... claim is and the grounds upon it rests.'" *Erickson v. Pardus*, 127 S. Ct, 2197, 2200 (2007) (per curiam) (quoting *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1964 (2007)). Thus, a complaint must not be dismissed for failure to state a claim where the allegations plausibly show "that the pleader is entitled to relief." *Bell*

APPENDIX "C"

Atlantic, 127 S. Ct. at 1965. Conversely, a complaint should be dismissed for failure to state a claim where the factual allegations do not raise the "right of relief above speculative level." *Id.*

In deciding a 12(b)(6) motion, the Court must accept as true all factual allegations in the complaint and must draw all reasonable inferences from those allegations, constructing the complaint in light most favorable to the plaintiff. *Westlands Water Dist. V. Firebaugh Canal,* 10 F. 3d 667, 670 (9 th Cir. 1993); see also *Enesco Corp v. Price/Costco, Inc.,* 146 F.3d 1083, 1085 (9 th Cir. 1988). However, courts are not required "to accept as true allegations that are merely conclusory, unwanted deductions of fact, or unreasonable inferences." *Sprewell v. Golden State Warriors*, 266 F. 3d 979, 988 (9th Cir. 2001).

APPENDIX "C"

"A *pro se* litigant must be given leave to amend his or her complaint unless it is absolutely that the deficiencies of the complaint could not be cured by amendment." Noll v. Carlson, 809 F.2d 1446, 1448 (9 th Cir. 1987) (internal quotation omitted). But this leniency has limits, and dismissal without leave is appropriate when a pro se plaintiff repeatedly files defective complaints despite instructions from the court on how to cure the deficiencies of the pleadings. Ferris v. Santa Clara County; 891 F.2d 715, 719 (9th Cir. 1989).

ANALYSIS

1. PLAINTIFF'S UNIDENTIFIED FIRST CLAIM RELIEF

Plaintiff's first claim requests that the Court order Defendants to pay $1,000 "for each of the Plaintiff domain names to be transferred off

the Defendants [sic} servers." (SAC ¶86.) But Plaintiff fails to identify any civil claim for relief. Defendants have not been given fair notice of the nature of this claim against them, and the claim fails.

Defendants' Motion to Dismiss is GRANTED as to Plaintiff's first claim for relief.

2. PLAINTIFF'S SECOND CLIAM FOR INJUNCTIVE RELIEF

Plaintiff's second claim requests that the Court enter an immediate injunction against Defendants preventing them from: (1) hijacking or stealing Plaintiff's domain names; (2) engaging in cyber-terrorism, computer hacking, IP hijacking, web tapping, or intercepting Plaintiff's emails; (3) hacking into Plaintiff's personal and business email accounts, domain names, and websites; and (4) spamming Plaintiff's email accounts on all domain names. (SAC ¶ 87.) But under California

law, a request for injunctive relief is a remedy, and not a separate Claim for relief. *See e.g. Shamsian v. Atl. Richfirld Co.,* 107 Cal. App. 5th 967, 984-85 (2003) ("A request for injunctive relief is not a cause of action. Therefore, we cannot let this 'cause of auction' stand."). Plaintiff's second claim fails.

Defendants' Motion to Dismiss is GRANTED as to Plaintiff's second claim for relief.

3. PLAINTIFF'S THIRD CLAIM FOR VIOLATIONS OF THE COMPUTER FRAUD AND ABUSE ACT

> Plaintiff's third claim is for violation of the Computer Act and Abuse Act, 18 U.S.C. § 1030, *et seq.* Plaintiff alleges that Defendants "knowingly and intentionally accessed Plaintiff's computers, servers,

APPENDIX "C"

> websites, domain names, personal and business email accounts without authorization from the Plaintiff." (SAC ¶ 89.)

Most of the Computer Fraud and Abuse Act protects only certain classes of information, such as information determined by the United States Government by executive order or statue to require protection for reasons of national defense or foreign relations, or information from computers used by financial institutions or the United States Government. See 18 U.S.C. § 1030. Because Plaintiff does not allege that his computers, servers, websites, domain names, or email accounts contained such protected information, those provisions of the Computer Fraud and Abuse Act do not apply to Plaintiff's claim. Section 1030(a)(6) makes it illegal to knowingly, and intent to defraud,

APPENDIX "C"

"traffic[]...in any password or similar information through which a computer may be accessed without authorization, "if such trafficking affects interstate or foreign commerce or allows access to a computer used by or the United States Government. 18 U.S.C. § 1030(a)(6). As used in the Computer Fraud and Abuse Act, to "traffic" in information is to "transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of "information. 18 U.S.C. § 1029. Here, Plaintiff does not allege that Defendants transferred his password information to other parties or obtained control of his password information with the intent to transfer it to other parties. Plaintiff does not state a claim under the Computer Fraud and Abuse Act.

Defendants' Motion to Dismiss is GRANTED as to Plaintiff's third claim for relief.

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4. PLAINTIFF'S FORTH CLAIM FOR VIOLATIONS OF CALIFORNIA PENAL CODE § 502

Plaintiff's forth claim is for violations of Section 502 of the California Penal Code. Plaintiff alleges that the Defendants knowingly and without permission accessed, altered, damaged, and destroyed Plaintiff's computers, data, servers, and websites. (SAC ¶¶ 95-98.)

Section 502 was enacted to "expand the degree of protection afforded to individuals, business, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems." Cal. Pen. Code § 502(a). The statue makes it illegally to knowingly access without permission computers, computer systems, and computer networks. *See* Cal. Pen. Code § 502(c). Section 502(e) provides a private

APPENDIX "C"

right of action for an "owner or lessee of [a] computer, computer system, computer network, computer program, or data" who suffers damage or loss due to a violation of the statue. Cal. Pen. Code § 502(e). Here, Plaintiff does not allege sufficient facts to support his claim that Defendants knowingly and without permission accessed, altered, damaged, and destroyed his computers, data, servers, and websites. Throughout the Second Amended Complaint, Plaintiff repeatedly alleges that Defendants accessed servers, hacked into domain names and website, rerouted stolen domain names to terrorist cells located in Canada, removed personal emails, removed articles from websites, sold email accounts to spammers, and defaced websites with terrorist symbols. But Plaintiff pleads no facts in support of these allegations. This Court is not required to accept as true "allegations that are merely conclusory,

unwarranted deductions of fact, or unreasonable inferences." Sprewell, 266 F.3d at 988. Plaintiff's claim fails.

Defendants' Motion to Dismiss is GRANTED as to Plaintiff's forth claim for relief.

5. PLAINTIFF'S FIFTH CLAIM FOR VIOLATIONS OF THE ELECTRONIC COMMUNICATIONS PRIVACY ACT

Plaintiff's fifth claim is for violations of the Electronic Communications Privacy Act. 18 U.S.C. § 2701, *et seq*. Plaintiff alleges that Defendants hacked and fraudulently accessed Plaintiff's computers, servers, email accounts websites, hosting accounts, and domain names. (SAC ¶ 105.) On Monday, October 20, 2008, Plaintiff alleges, Defendants hacked into

APPENDIX "C"

www.attorneysaccess.com, one of the Plaintiff's websites, and "removed all Attorneys and Law Firms paid :Listings without the authorization of the Plaintiff thus defacing the Plaintiff's Attorney website." (SAC ¶ 106.) Plaintiff further alleges that in January 2009, Defendants hacked into www.annettemartini.us, another of Plaintiff's websites, and removed files, removed data, and shut the website for 3 consecutive days. (SAC ¶ 107.)

The Electronic Communications Privacy Act prohibits unauthorized access of a "facility through which an electronic communication service is provided." See 18 U.S.C. § 2701. The statue applies to any person who: (1) internationally accesses without authorization a facility through which an electronic communications service is provided; or (2) intentionally exceeds an authorization to access

that facility and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in the system. 18 U.S.C. § 2701(a). Here, Plaintiff does not allege that either www.attorneysaccess.com or www.annettemartini.us is a "facility through which electronic communications services are provided," and his claim under the Electronic Communications Privacy Act fails.

Defendants' Motion to Dismiss is GRANTED as to Plaintiff's fifth claim for relief.

6. PLAINTIFF'S SIXTH CLAIM FOR BREACH OF CONTRACT

Plaintiff's sixth claim is for breach of contract. Plaintiff alleges that Defendants have "repeatedly time after time stolen the Plaintiff's domain

names and auctioning [*sic*] those stolen domain names that are owned by the Plaintiff for their own personal and criminal gains." (SAC ¶ 116.)

To state a claim of breach of contact under California law, a plaintiff must allege the existence of a contract, the plaintiff's performance or excuse for nonperformance, the defendant's breach, and resulting damages. *See Metcalf v. Drexel Lending Group,* 2008 WL4748134, *4 (S.D. Cal. 2008). Here, Plaintiff fails to specify the actual contract he relies on. Plaintiff further fails to allege his performance or excuse for non-performance, the specific contractual terms breached, or how Plaintiff has been damaged as a result of the breach. The breach of contract claim fails.

Defendants' Motion to Dismiss is GRANTED as to Plaintiff's sixth claim for breach of contract.

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7. PLAINTIFF'S SEVENTH CLAIM FOR VIOLATIONS OF THE CAN-SPAM ACT

Plaintiff's seventh claim is for violations of the Controlling the Assault of Non-Solicited Pornography and Marketing Act ("CAN-SPAM Act"), 15 U.S.C. § 1701 *et seq.* Plaintiff alleges that he receives spam emails on al of the email accounts associated with the domain names registered with Defendants. (SAC ¶ 121.) Plaintiff further alleges that Defendants "intentionally either sold the Plaintiff's email accounts to high volume spammers or deliberately and maliciously engaged in spamming the Plaintiff's email accounts." (SAC ¶ 122.)

The CAN-SPAM Act regulates the transmission of unsolicited commercial emails. See 15 U.S.C. §§ 7001, *et seq.* The statue is enforced by the Federal Trade Commission, other federal agencies, and state attorneys general. *Id.*

at §§ 7706(a),(b),(f). The statue provides a limited private right of action for injunctive relief or damages by any 'provider of internet access service adversely affected by a violation" of Sections 7704(a)(1),(b) or (d). Id. at § 7706 (g)(1). An "Internet access service" is defined as "service that enables users to access content, information, electronic mail, or other services offered over the internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to customers." 47 U.S.C. § 231(e)(4). Because the CAN-SPAM Act regulates conduct involving email, a private right of action under the Act is limited to Internet access services providing access to email. *MySpace, Inc. v. TheGlobe.Com, Inc.*, 2007 WL 1686966 (C.D. Cal. 2007). Here, Plaintiff does not allege that his websites provide access to email. Plaintiff does not provide an "Internet access service" within the meaning of

the CAN-SPAM Act, and he cannot bring a claim under the statute.

Defendants' Motion to Dismiss is GRANTED as to Plaintiff's seventh claim for relief.

DISPOSITION

This Court has repeatedly advised the Plaintiff to amend his pleadings "by including specific facts that tie his theories of wrongdoing to his legal claims." (Oct. 20, 2008 Order at 5; Dec. 23, 2008 Order at 2.) Plaintiff has now been given three opportunities to produce a viable complaint, and he is still unable to state a single claim for relief. The Motion to Dismiss is GRANTED without leave to amend. Defendants are invited to submit a judgment to the Court.

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IT IS SO ORDERED.

DATED: March 16, 2009

/s/

/scanned Signature/

Andrew J. Guilford

United Sates District Judge